



DEPARTMENT OF VETERANS AFFAIRS  
Washington DC 20420

September 6, 2019

In Reply Refer To: 001B  
**FOIA Request: 19-02710-F**

Jasper Craven  
MuckRock News  
DEPT MR 63613  
411A Highland Avenue  
Somerville, MA 02144-2516  
[65310-40874150@requests.muckrock.com](mailto:65310-40874150@requests.muckrock.com); [jclarkcraven@gmail.com](mailto:jclarkcraven@gmail.com)

Dear Mr. Craven,

This is the Initial Agency Decision (IAD) from Office of the Secretary, U.S. Dept. of Veterans Affairs (OSVA) to your Freedom of Information Act (FOIA) request dated and received December 11, 2018, and assigned FOIA tracking number **19-02710-F**. You requested: "All communication between the following VA officials: Darin Selnick, David Shulkin, Lew Boone, Jeffrey F. London, Robert Wilkie, Casin Spero, John Ulyot, Gregory Giddens and former Congress member Jeff Miller, now a lobbyist at McDermott Will and Emery (Miller's email is: [jbmiller@mwe.com](mailto:jbmiller@mwe.com)) between Jan 20, 2017 and present day. Key words include: 'Cerner,' 'Cohen,' 'veterans evaluation services,' 'proton,' 'trivest,' 'partnership' and 'legislation.'"

Other VA FOIA offices have or are processing your FOIA requests for similar records, including the VBA FOIA office (**19-02714-F**), OPIA FOIA office (**19-02715-F**), VBA-Loan Guaranty FOIA office (**19-02716-F**), and VBA Central Office (**19-02527-F**).

**IAD & Reasonable Searches Dated 12/20/18 & 7/25/19**

On December 20, 2018, our search-cut off date, the OSVA FOIA Officer requested that the VA OIT office submit all responsive email records within its possession. On January 10, 2019, the VA OIT office submitted the emails, with the OSVA to conduct secondary searches.

On July 26, 2019, the OSVA FOIA Officer looked through the below email boxes with the date timeframe of January 20, 2017, to December 20, 2018:

- 1) Robert Wilkie,
- 2) David Shulkin,
- 3) Darin Selnick, and,
- 4) Casin Spero.

The OSVA FOIA Officer looked for any emails to, from, or copying Mr. Jeff Miller. This search yielded fifty-five (55) pages. After reviewing the fifty-five (55) pages, OSVA redacts some information with FOIA Exemption 6.

5 U.S.C. § 552(b)(6) exempts from required disclosure "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." FOIA Exemption 6 permits VA to withhold a document or information within a document if disclosure of the information, either by itself or in conjunction with other information available to either the public or the FOIA requester, would result in an unwarranted invasion of an individual's personal privacy without contributing significantly to the public's understanding of the activities of the federal government. Specifically, the information being withheld, as

indicated on the enclosed documents, under FOIA Exemption 6, consists of names, identities, email addresses, phone numbers, cellular numbers, and facsimile numbers of: federal employees and private citizens. However, we release the names and VA contact information of VA Senior Executives. Federal employees and private citizens retain a significant privacy interest under certain circumstances, such as in instances where the release of their information could represent a threat to their well-being, harassment, or their ability to function within their sphere of employment. The federal employees and private citizens whose information is at issue have a substantial privacy interest in their personal information. In weighing the private versus the public interest, we find that there is no public interest in knowing the names, identities, email addresses, phone numbers, cellular numbers, and facsimile numbers of: federal employees and private citizens. The coverage of FOIA Exemption 6 is absolute unless the FOIA requester can demonstrate a countervailing public interest in the requested information by demonstrating that the FOIA requester is in a position to provide the requested information to members of the general public and that the information requested contributes significantly to the public's understanding of the activities of the Federal government. Additionally, the requester must demonstrate how the public's need to understand the information significantly outweighs the privacy interest of the person to whom the information pertains. Upon consideration of the records, I have not been able to identify a countervailing public interest of sufficient magnitude to outweigh the privacy interest of the individuals whose names are redacted. The protected information has been redacted and (b)(6) inserted. "Withholding a telephone number or e-mail address, alone, is not sufficient to protect that [privacy] interest; alternate means of contacting and harassing these employees would be readily discoverable on the Internet if this court ordered their names disclosed." Long v. Immigration & Customs Enf't, 2017 U.S. Dist. LEXIS 160719 (D.C. Cir. 2017).

### **FOIA Mediation**

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016, the following contact information is provided to assist FOIA requesters in resolving disputes:

#### **VA Central Office FOIA Public Liaison:**

Name: John Buck

Email Address: [vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov)

#### **Office of Government Information Services (OGIS)**

Email Address: [ogis@nara.gov](mailto:ogis@nara.gov)

Fax: 202-741-5769

Mailing address:

National Archives and Records Administration

8601 Adelphi Road

College Park, MD 20740-6001

### **FOIA Appeal**

This concludes OSVA's IAD to FOIA request **19-02710-F**. Please be advised that should you desire to do so, you may appeal the determination made in this response to:

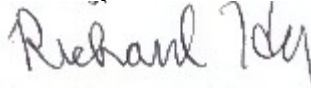
Office of General Counsel (024)  
Department of Veterans Affairs

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810 Vermont Avenue, NW  
Washington, DC 20420

If you should choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response. Please be advised that in accordance with VA's implementing FOIA regulations at 38 C.F.R. § 1.559, your appeal must be postmarked no later than ninety (90) days of the date of this letter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard Ha". The signature is written in a cursive, slightly slanted style.

Richard Ha, JD, CIPP/G  
OSVA FOIA Officer

Attachment – fifty-five (55) redacted pages